

SETTLEMENT AGREEMENT
BETWEEN
MISSOURI REAL ESTATE COMMISSION
AND
CHAFFIN REAL ESTATE, LLC

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MREC

Chaffin Real Estate LLC (Chaffin Real Estate) and the Missouri Real Estate Commission (MREC) enter into this Settlement Agreement for the purpose of resolving the question of whether Chaffin Real Estate's license as a real estate association, no 2010007472, will be subject to discipline Pursuant to § 536 060 RSMo 2000,¹ the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri and, additionally, the right to a disciplinary hearing before the MREC under § 621 110, RSMo Supp 2011 The MREC and Chaffin Real Estate jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621 045 RSMo Supp 2011

Chaffin Real Estate acknowledges that it understands the various rights and privileges afforded it by law including the right to a hearing of the charges against it, the right to appear and be represented by legal counsel the right to have all charges proven upon the record by competent and substantial evidence the right to cross examine any witnesses appearing

¹ All statutory citations are to the 2000 Revised Statutes of Missouri unless otherwise noted

against it at the hearing, the right to present evidence on its behalf at the hearing the right to a decision upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the charges pending against it, the right to a ruling on questions of law by the Administrative Hearing Commission, the right to a disciplinary hearing before the MREC at which time Chaffin Real Estate may present evidence in mitigation of discipline, the right to a claim for attorney fees and expenses, and the right to obtain judicial review of the decisions of the Administrative Hearing Commission and the MREC

Being aware of these rights provided to it by law, Chaffin Real Estate knowingly and voluntarily waives each and every one of these rights and freely enters into this Settlement Agreement and agrees to abide by the terms of this document as they pertain to it

Chaffin Real Estate acknowledges that it has received a copy of documents that were the basis upon which the MREC determined there was cause for discipline, along with citations to law and/or regulations the MREC believes were violated Chaffin Real Estate stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the MREC that Chaffin Real Estate's license as a real estate association license no 2010007472, is subject to disciplinary action by the MREC in

accordance with the relevant provisions of Chapter 621, RSMo, and Chapter 339 RSMo as amended

The parties stipulate and agree that the disciplinary order agreed to by the MREC and Chaffin Real Estate in Part II herein is based only on the agreement set out in Part I herein Chaffin Real Estate understands that the MREC may take further disciplinary action against it based on facts or conduct not specifically mentioned in this document that are either now known to the MREC or may be discovered

I

Joint Stipulation of Facts and Conclusions of Law

Based upon the foregoing the MREC and Chaffin Real Estate herein jointly stipulate to the following

1 The Missouri Real Estate Commission is an agency of the State of Missouri created and established pursuant to § 339 120 RSMo Supp 2011, for the purpose of executing and enforcing provisions of §§ 339 010 through 339 205 and §§ 339 710 through 339 855, RSMo, as amended

2 Chaffin Real Estate is licensed by the MREC as a real estate association, license no 2010007472 At all relevant times herein Chaffin Real Estate s license was active and current

3 Chaffin Real Estate s real estate association license is scheduled to expire on June 30, 2014

4 Chaffin Real Estate is registered with the Missouri Secretary of State charter no LC1039149 Chaffin Real Estate's registered agent and organizer is Dorothea Chaffin 300 Birch Lane Waynesville MO 65583

5 At all times relevant herein, Dorothea Chaffin was the designated broker of Chaffin Real Estate as defined by § 339 710(12), RSMo Supp 2011

6 Cause exists to discipline Chaffin Real Estate's real estate association license pursuant to § 339 100 2, RSMo Supp 2011, which provides in pertinent part

2 The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621 RSMo against any person or entity licensed under this chapter or any licensee who has failed to renew or has surrendered his or her individual or entity license for any one or combination of the following acts

* * *

(3) Failing within a reasonable time to account for or to remit any moneys valuable documents or other property coming into his or her possession which belongs to others

* * *

(15) Violation of or attempting to violate, directly or indirectly, or assisting or enabling any person to violate any provision of sections 339 010 to 339 180, and sections 339 710 to 339 860, or of any lawful rule adopted pursuant to sections 339 010 to 339 180 and sections 339 710 to 339 860,

* * *

(19) Any other conduct which constitutes untrustworthy, improper or fraudulent business dealings, or demonstrates bad faith or incompetence, misconduct, or gross negligence[]

7 Chaffin Real Estate managed properties belonging to Harris Land Development LLC ("Harris Land Development") during March 2011 and April 2011 without a signed management agreement in violation of 20 CSR 2250 8 200(1) and § 339 780 2 and 3, RSMo Supp 2011, thus providing cause to discipline the real estate license of Chaffin Real Estate pursuant to § 339 100 2(15), RSMo Supp 2011

8 20 CSR 2250 8 200(1) provides

(1) When managing property a licensee shall not rent or lease offer to rent or lease, negotiate, or offer or agree to negotiate the rent or lease list or offer to list for lease or rent assist or direct in procuring of prospects calculated to result in the lease or rent, assist or direct in the negotiation of any transaction calculated or intended to result in the lease or rent, or show that property to prospective renters or lessees unless the licensee's broker holds a current written property management agreement or other written authorization signed by the owner of the real estate or the owner's authorized agent

9 Section 339 780 2 and 3, RSMo Supp 2011 provides in pertinent part

2 Before engaging in any of the activities enumerated in section 339 010, a designated broker intending to

establish a limited agency relationship with a seller or landlord shall enter into a written agency agreement with the party to be represented. The agreement shall include a licensee's duties and responsibilities specified in section 339 730 and the terms of compensation and shall specify whether an offer of subagency may be made to any other designated broker.

3 Before or while engaging in any acts enumerated in section 339 010, except ministerial acts defined in section 339 710, a designated broker acting as a single agent for a buyer or tenant shall enter into a written agency agreement with the buyer or tenant. The agreement shall include a licensee's duties and responsibilities specified in section 339 740 and the terms of compensation.

10 Chaffin Real Estate transferred and held funds of Harris Land Development without authorization or a signed management agreement from Harris Land Development in violation of § 339 780 2 and 3 RSMo Supp. 2011 as cited above, and § 339 105 3 RSMo Supp. 2011 thus providing cause to discipline the real estate license of Chaffin Real Estate pursuant to § 339 100 2(3) (15), and (19), RSMo Supp. 2011.

11 Section 339 105 3 RSMo Supp. 2011, provides

3 In conjunction with each escrow or trust account a broker shall maintain books, records, contracts and other necessary documents so that the adequacy of said account may be determined at any time. The account and other records shall be provided to the commission and its duly authorized agents for inspection at all times during regular business hours at the broker's usual place of business.

12 Chaffin Real Estate failed to timely remit funds belonging to Harris Land Development after the management agreement between Chaffin Real Estate and Harris Land Development was terminated in violation of § 339 790 2(1), RSMo Supp 2011 thus providing cause to discipline the real estate license of Chaffin Real Estate pursuant to § 339 100 2(3) (15), and (19) RSMo Supp 2011

13 Section 339 790 2(1), RSMo Supp 2011 provides

2 A real estate broker and an affiliated licensee owe no further duty or obligation after termination, expiration completion or performance of the brokerage agreement, except the duties of

(1) Accounting in a timely manner for all money and property related to, and received during the relationship[]

14 Chaffin Real Estate failed to remit funds of Harris Land Development in the correct amount and from the correct escrow account in violation of § 339 790 2(1), RSMo Supp 2011 as cited above, thus providing cause to discipline the real estate license of Chaffin Real Estate pursuant to § 339 100 2(3) (15) and (19) RSMo Supp 2011

15 Chaffin Real Estate failed to timely remit tenant information leases, and keys belonging to Harris Land Development in violation of § 339 790 2(1) RSMo Supp 2011, as cited above thus providing cause to

discipline the real estate license of Chaffin Real Estate pursuant to
§ 339 100 2(3) (15) and (19) RSMo Supp 2011

16 The conduct of Chaffin Real Estate as alleged herein constitutes
untrustworthy, improper and/or fraudulent business dealings and/or
demonstrates bad faith and/or gross incompetence providing cause to
discipline the real estate license of Chaffin Real Estate pursuant to
§ 339 100 2(19), RSMo Supp 2011

17 Based on the conduct of Chaffin Real Estate as alleged herein,
cause exists to discipline Chaffin Real Estate s real estate license pursuant to
§ 339 100 2(3) (15), and (19), RSMo Supp 2011

II **Joint Agreed Disciplinary Order**

Based on the foregoing, the parties mutually agree and stipulate that
the following shall constitute the disciplinary order entered by the MREC in
this matter under the authority of § 536 060, RSMo, and §§ 621 045 3 and
621 110, RSMo Supp 2011

18 **Chaffin Real Estate's license is on probation** Chaffin Real
Estate s license as a real estate association is hereby placed on PROBATION
for a period of TWO YEARS The period of probation shall constitute the
“disciplinary period ” During the disciplinary period Chaffin Real Estate
shall be entitled to practice as a real estate association under Chapter 339

RSMo, as amended provided Chaffin Real Estate adheres to all the terms of this agreement

19 **Terms and conditions of the disciplinary period** Terms and conditions of the probation are as follows

A Chaffin Real Estate shall keep the MREC apprised at all times of its current address and telephone number at each place of residence and business Chaffin Real Estate shall notify the MREC in writing within ten (10) days of any change in this information

B Chaffin Real Estate shall timely renew its real estate license(s), timely pay all fees required for license renewal and shall comply with all other requirements necessary to maintain its license(s) in a current and active status During the disciplinary period Chaffin Real Estate Real Estate shall not place its real estate license(s) on inactive status as would otherwise be allowed under 20 CSR 2250 4 040 Alternatively without violating the terms and conditions of this Settlement Agreement Chaffin Real Estate may surrender its real estate license(s) by submitting a letter to the MREC and complying with 20 CSR 2250 8 155 If Chaffin Real Estate applies for a real estate license after surrender, Chaffin Real Estate shall be required to requalify as if an original applicant and the MREC will not be

precluded from basing its decision, wholly or partially, on the findings of fact, conclusions of law, and discipline set forth in this Settlement Agreement

C Chaffin Real Estate shall meet in person with the MREC or its representative at any such time or place as required by the MREC or its designee upon notification from the MREC or its designee. Said meetings will be at the MREC's discretion and may occur periodically during the probation period.

D Chaffin Real Estate shall immediately submit documents showing compliance with the requirements of this settlement agreement to the MREC when requested by the MREC or its designee.

E During the probationary period, Chaffin Real Estate shall accept and comply with unannounced visits from the MREC's representative to monitor compliance with the terms and conditions of this settlement agreement.

F Chaffin Real Estate shall comply with all relevant provisions of Chapter 339 RSMo, as amended, all rules and regulations duly promulgated thereunder, all local, state and federal laws. "State" as used herein includes the State of Missouri and all other states and territories of the United States.

20 Upon the expiration of the disciplinary period the license of Chaffin Real Estate shall be fully restored if all requirements of law have been satisfied provided however that in the event the MREC determines that Chaffin Real Estate has violated any term or condition of this Settlement Agreement, the MREC may in its discretion after an evidentiary hearing vacate and set aside the discipline imposed herein and may suspend revoke or otherwise lawfully discipline Chaffin Real Estate's license

21 No additional discipline shall be imposed by the MREC pursuant to the preceding paragraph of this Settlement Agreement without notice and opportunity for hearing before the MREC as a contested case in accordance with the provisions of Chapter 536, RSMo

22 This Settlement Agreement does not bind the MREC or restrict the remedies available to it concerning any future violations by Chaffin Real Estate of Chapter 339 RSMo, as amended, or the regulations promulgated thereunder or of the terms and conditions of this Settlement Agreement

23 This Settlement Agreement does not bind the MREC or restrict the remedies available to it concerning facts or conduct not specifically mentioned in this Settlement Agreement that are either now known to the MREC or may be discovered

24 If any alleged violation of this Settlement Agreement occurred during the disciplinary period the parties agree that the MREC may choose to conduct a hearing before it either during the disciplinary period, or as soon thereafter as a hearing can be held to determine whether a violation occurred and, if so, may impose further disciplinary action Chaffin Real Estate agrees and stipulates that the MREC has continuing jurisdiction to hold a hearing to determine if a violation of this Settlement Agreement has occurred

25 Each party agrees to pay all their own fees and expenses incurred as a result of this case, its litigation, and/or its settlement

26 The terms of this Settlement Agreement are contractual legally enforceable, and binding, not merely recital Except as otherwise contained herein neither this Settlement Agreement nor any of its provisions may be changed waived discharged, or terminated except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge or termination is sought

27 The parties to this Settlement Agreement understand that the MREC will maintain this Settlement Agreement as an open record of the MREC as required by Chapters 339, 610, and 324, RSMo as amended

28 Chaffin Real Estate together with its partners, members managers heirs, assigns, agents employees representatives and attorneys,

does hereby waive release, acquit and forever discharge the MREC, its respective members, employees agents and attorneys including former members, employees agents and attorneys, of, or from any liability, claim actions causes of action, fees, costs, expenses and compensation, including but not limited to any claim for attorney s fees and expenses, whether or not now known or contemplated including, but not limited to, any claims pursuant to § 536 087 RSMo (as amended) or any claim arising under 42 U S C § 1983, which now or in the future may be based upon, arise out of, or relate to any of the matters raised in this case or its litigation or from the negotiation or execution of this Settlement Agreement The parties acknowledge that this paragraph is severable from the remaining portions of the Settlement Agreement in that it survives in perpetuity even in the event that any court or administrative tribunal deems this agreement or any portion thereof void or unenforceable

29 Chaffin Real Estate understands that it may, either at the time the Settlement Agreement is signed by all parties or within fifteen days thereafter, submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitute grounds for disciplining Chaffin Real Estate's license If Chaffin Real Estate desires the Administrative Hearing Commission to review this Settlement

Agreement, Chaffin Real Estate may submit its request to Administrative Hearing Commission, Truman State Office Building, Room 640 301 W High Street P O Box 1557, Jefferson City, Missouri 65102

30 If Chaffin Real Estate requests review, this Settlement Agreement shall become effective on the date the Administrative Hearing Commission issues its order finding that the Settlement Agreement sets forth cause for disciplining Chaffin Real Estate's license. If the Administrative Hearing Commission issues an order stating that the Settlement Agreement does not set forth cause for discipline then the MREC may proceed to seek discipline against Chaffin Real Estate as allowed by law. If Chaffin Real Estate does not request review by the Administrative Hearing Commission this Settlement Agreement goes into effect 15 days after the document is signed by the Executive Director of the MREC.

CHAFFIN REAL ESTATE LLC

MISSOURI REAL ESTATE
COMMISSION

By *Northeast Chaffin* ^{9/26/2012}
Date

Title *Broker-Associate*

Janet Carder
Janet Carder Executive Director
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